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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

SECOND APPELLATE DISTRICT

DIVISION ONE

CEDRIC GREENE,

Plaintiff and Appellant,

v.

GWENDOLYN CERMAK et al.,

Defendants and Respondents.

B217536

(Los Angeles County
Super. Ct. No. BC384752)

APPEAL from an order of the Superior Court of Los Angeles County. John Shepard Wiley, Jr., Judge. Affirmed.

Cedric Greene, in pro. per., for Plaintiff and Appellant.

Edmund G. Brown, Jr., Attorney General, Rochelle C. East, Assistant Attorney General, Rene L. Lucaric and Paul J. Coony, Deputy Attorneys General, for Plaintiff and Respondent.

Plaintiff Cedric Greene appeals the trial court's order dismissing his case after he failed to appear on the first day of trial. We affirm.

Background

In February 2008, Mr. Greene sued respondents alleging they had falsely arrested him. Mr. Greene did not appear on the first day of trial, which was scheduled to begin on July 7, 2009. The trial court granted respondents' motion for nonsuit and dismissed the case. Mr. Greene appealed.

Discussion

1. Dismissal

On appeal, Mr. Greene claims the trial court erred in dismissing his case because, at the time trial was to begin, Mr. Greene was "attempting to obtain Supreme Court relief." According to Mr. Greene, the trial court should not have entered its order "without Supreme Court clearance."

We review the trial court's order of dismissal for abuse of discretion. (*Link v. Cater* (1998) 60 Cal.App.4th 1315, 1321 [review of discretionary dismissal under section 581, subdivision (l), for failure to appear at trial is governed by the abuse of discretion standard].) Code of Civil Procedure section 581, subdivision (l) permits the trial court to dismiss an action without prejudice "when either party fails to appear at the trial and the other party appears and asks for the dismissal." (Code Civ. Proc., § 581, subd. (l). See also § 581, subd. (b)(5).) That is precisely what happened here. When Mr. Greene failed to appear for trial, respondents asked for, and the trial court granted, a dismissal. Although Mr. Greene references United States Supreme Court Rule 23, which governs stays, the record does not reflect that this case was ever stayed under that or any other rule, or by any other means.

We conclude the trial court did not abuse its discretion in dismissing the case.

2. Issues Raised in Reply Brief

In his reply brief, Mr. Greene appears to challenge the denial of a motion to disqualify the trial judge under Code of Civil Procedure, section 170.1. For a number of reasons, we conclude Mr. Greene has waived this issue on appeal. First, Mr. Greene raised it only in his reply brief. (See *Stoll v. Shuff* (1994) 22 Cal.App.4th 22, 25, fn. 1 [“an appellate court has the discretion to deem an alleged error to have been waived if asserted only in the reply brief and not the opening brief”].) Second, the record on appeal contains nothing related to a section 170.1 disqualification motion and Mr. Greene did not support his claim with any legal authority or analysis. (See *Gee v. American Realty & Construction, Inc.* (2002) 99 Cal.App.4th 1412, 1416 [“if the record is inadequate for meaningful review, the appellant defaults and the decision of the trial court should be affirmed”]; *EnPalm, LLC v. Teitler Family Trust* (2008) 162 Cal.App.4th 770, 775 [claim on appeal deemed waived because not supported by “argument, discussion, analysis, or citation to the record”].) In any event, a ruling on such a motion is not appealable and therefore, even if not waived, the issue would not properly be before this court. (*Roberts v. County of Los Angeles* (2009) 175 Cal.App.4th 474, 487.)

Similarly, to the extent Mr. Greene challenges the denial of a motion for a change of venue, we conclude Mr. Greene has waived that issue. Mr. Greene mentioned it only in his reply brief, did not include legal authority or analysis to support his claim, and included nothing in the record on appeal related to such a motion. (See *Stoll v. Shuff*, *supra*, 22 Cal.App.4th at p. 25, fn. 1; *EnPalm, LLC v. Teitler Family Trust*, *supra*, 162 Cal.App.4th at p. 775; *Gee v. American Realty & Construction, Inc.*, *supra*, 99 Cal.App.4th at p. 1416.)

Disposition

The order of dismissal is affirmed. Respondents are to recover their costs on appeal.

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CHANEY, J.

We concur:

ROTHSCHILD, Acting P. J.

JOHNSON, J.